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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/905,209	07/12/2001	Tadahiro Ohmi	SUGI 0070	2969
24203	7590	01/13/2005	EXAMINER	
GRIFFIN & SZIPL, PC SUITE PH-1 2300 NINTH STREET, SOUTH ARLINGTON, VA 22204			KERNS, KEVIN P	
			ART UNIT	PAPER NUMBER
			1725	

DATE MAILED: 01/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/905,209	OHMI ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Kevin P. Kerns	1725	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondenc address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 November 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 5-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 5-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 July 2001 and 02 November 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Priority*

1. Acknowledgment is made of applicants' claim for foreign priority based on an application (PCT/JP00/03658) dated June 5, 2000. It is noted, however, that the applicants have not filed a certified copy of the PCT application as required by 35 U.S.C. 119(b).

### *Double Patenting*

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1 and 5-13 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 7-18, 21, 23, 24, and 26-29 of copending Application No. 09/773,605 (analogous to US 2002/0122758). Although the conflicting claims are not identical, they are not patentably distinct from each other because the claimed reactor includes two body members (reactor structural components on the inlet and outlet sides) connected by a

Art Unit: 1725

weld and defining an interior space; a gas feed passage engaged in a round recession with the inlet side structural component; a moisture gas outlet passage engaged in a round recession with the outlet side structural component; an inlet reflector positioned opposite the inlet gas feed passage; an outlet reflector positioned opposite the moisture gas outlet passage; a temperature regulator in the form of cooling fins provided on the outside walls of the structural components; and a platinum catalyst film formed on the inner wall surface of the reactional furnace, such that mixed hydrogen and oxygen are fed into the reactor interior space through the gas feed passage to contact the platinum coating film to react and form water to be obtained from the moisture gas outlet passage. One of ordinary skill in the art would have recognized that the structural features and coating materials of the present application are nearly identical to and/or obvious over those set forth in 09/773,605, and it would have been obvious to use various pressure reducing means (without using a filter) set forth in 09/773,605 for operation of the reactor (including one or more components selected from an orifice, a valve, a capillary, and a filter), as open-ended "comprising" language exists in the present application.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

### ***Response to Arguments***

4. The examiner acknowledges the applicants' amendment and replacement drawing sheets, both of which were received by the USPTO on November 2, 2004. The

amendments overcome prior objections to the drawings and specification, as well as prior rejections under 35 USC 112, 2<sup>nd</sup> paragraph. In addition, the applicants' amendments overcome all prior art and double patenting rejections, with the exception of the double patenting rejections under copending Application No. 09/773,605 (see paragraph 3 above). The applicants are also referred to paragraph 1 regarding foreign priority. The applicants have cancelled claims 2-4. Claims 1 and 5-13 are currently under consideration in the application.

5. Applicants' arguments and amendments filed November 2, 2004, with respect to the prior art rejections and double patenting rejections (with the exception of double patenting with copending Application No. 09/773,605) have been fully considered and are persuasive. The previous rejections set forth in paragraphs 7, 8, 13-17, and 20 of the prior Office Action have been withdrawn.

### ***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dr. Kevin P. Kerns whose telephone number is (571) 272-1178. The examiner can normally be reached on Monday-Friday from 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Dunn can be reached on (571) 272-1171. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 1725

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kevin P. Kerns *Kevin Kerns 1/12/05*  
Examiner  
Art Unit 1725

*KPK*  
kpk  
January 12, 2005